SENATE BILL No. 457

————

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-8-12; IC 6-8.1-1-1.

Synopsis: Beverage container tax. Imposes a five cent tax on beverage containers. Imposes criminal penalties on retailers for certain violations. Provides that revenue generated by the tax is deposited in the state general fund and appropriated for services for developmentally disabled individuals and tuition support.

Effective: July 1, 2004.

Howard

January 12, 2004, read first time and referred to Committee on Rules and Legislative Procedure.

C
o
p
y

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~
   Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.
   Conflict reconciliation: Text in a statute in *this style type* or *~~this style type~~* reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

SENATE BILL No. 457

———

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1   SECTION 1. IC 6-8-12 IS ADDED TO THE INDIANA CODE AS
2   A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3   1, 2004]:
4   **Chapter 12. Beverage Container Tax**
5   **Sec. 1. As used in this chapter, "beverage" means any beverage,**
6   **including alcoholic beverages, coffee, fruit juice, milk, soft drink or**
7   **soda, vegetable juice, and water, that is intended for human**
8   **consumption.**
9   **Sec. 2. As used in this chapter, "beverage container" means an**
10   **individual bottle, can, jar, or carton that is composed of glass,**
11   **metal, plastic, or any combination of these materials and that**
12   **contains a beverage.**
13   **Sec. 3. As used in this chapter, "department" refers to the**
14   **department of state revenue.**
15   **Sec. 4. As used in this chapter, "person" includes an association,**
16   **a corporation, a fiduciary, an individual, a limited liability**
17   **company, a partnership, or a sole proprietorship.**

1 Sec. 5. As used in this chapter, "retailer" means a person that
2 sells a beverage container to an ultimate consumer.
3 Sec. 6. An excise tax known as the beverage container tax is
4 imposed at a rate of five cents ($0.05) on each beverage container
5 sold by a retailer. The beverage container tax is in addition to any
6 other tax imposed by law.
7 Sec. 7. The beverage container tax does not apply to containers
8 of the following:
9 (1) A solid mixture of ingredients used to prepare a beverage.
10 (2) A product intended for weight loss (excluding diet soft
11 drinks and sodas).
12 (3) A product, other than a beverage, intended for
13 consumption by infants.
14 (4) Beverages sold to the federal government.
15 (5) Beverages exported from the state.
16 Sec. 8. Not later than the fifteenth day of each month, a retailer
17 shall do the following:
18 (1) File a beverage container tax return with the department
19 on a form prescribed by the department.
20 (2) Remit to the department an amount equal to:
21 (A) the amount of beverage container tax imposed under
22 this chapter for which the retailer is liable for the
23 immediately preceding month; minus
24 (B) the amount determined under section 9 of this chapter.
25 Sec. 9. A retailer that timely complies with section 8 of this
26 chapter may deduct and retain from the beverage container tax
27 imposed under section 6 of this chapter a collection allowance of
28 one percent (1%) of the amount to be remitted under section
29 8(2)(A) of this chapter. The department may reduce the collection
30 allowance of a retailer that fails to timely comply with section 8 of
31 this chapter by an amount that does not exceed the lesser of:
32 (1) ten percent (10%) of the collection allowance; or
33 (2) fifty dollars ($50).
34 Sec. 10. (a) The beverage container tax collected under this
35 chapter shall be deposited in the state general fund.
36 (b) Money deposited in the state general fund under subsection
37 (a) is annually appropriated as follows:
38 (1) Fifty percent (50%) to the department of education for
39 tuition support under IC 21-3-1.7. Amounts appropriated
40 under this subdivision are in addition to any other amounts
41 appropriated by the general assembly to the department of
42 education for tuition support.

C
o
p
y

(2) Fifty percent (50%) to the division of disability, aging, and rehabilitative services established by IC 12-9-1-1 for services for developmentally disabled individuals (as defined in IC 12-7-2-62). Amounts appropriated under this subdivision are in addition to any other amounts appropriated by the general assembly to the division of disability, aging, and rehabilitation for services for developmentally disabled individuals.

 Sec. 11. A retailer who knowingly:

  (1) makes a false statement in a return filed under section 8 of this chapter;

  (2) fails to pay the tax for which the retailer is liable under this chapter; or

  (3) otherwise fails to comply with this chapter;

commits a Class B misdemeanor. However, the offense is a Class D felony if it is committed with intent to evade the tax imposed under this chapter or to defraud the state.

 Sec. 12. A retailer who fails to comply with IC 6-8.1-5-4 commits a Class B misdemeanor.

 Sec. 13. The beverage container tax is a listed tax for purposes of IC 6-8.1.

 SECTION 2. IC 6-8.1-1-1, AS AMENDED BY P.L.192-2002(ss), SECTION 140, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts tax (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1); the county option income tax (IC 6-3.5-6); the county economic development income tax (IC 6-3.5-7); the municipal option income tax (IC 6-3.5-8); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); **the beverage container tax (IC 6-8-12);** the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the

1   malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1);
2   the various innkeeper's taxes (IC 6-9); the various county food and
3   beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and
4   IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and
5   hazardous chemical inventory form fee (IC 6-6-10); the penalties
6   assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and
7   penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the
8   underground storage tank fee (IC 13-23); the solid waste management
9   fee (IC 13-20-22); and any other tax or fee that the department is
10   required to collect or administer.
11   SECTION 3. [EFFECTIVE JULY 1, 2004] **IC 6-8-12-11 and**
12   **IC 6-8-12-12, both as added by this act, apply to offenses**
13   **committed after June 30, 2004.**

C
o
p
y